IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2001 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GANDHINAGAR NAGRIK COOPERATIVEBANK LIMITED

Versus

PRAVINBHAI DAHYABHAI PATEL

Appearance:

MR JAYANT PATEL for Petitioners

MR SHIRISH JOSHI for Respondent No. 1

Respondent No. 2, 3 served.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 07/03/2000

ORAL JUDGEMENT

1. The petitioner- Gandhinagar Nagarik Cooperative Bank Limited has filed this petition for quashing and setting aside the order dated 17th March 1999 at annexure A to the petition passed by the Gujarat State Cooperative Tribunal in Revision Application No. 312 of 1999. The

grievance of the petitioners is to the effect that the Tribunal has no jurisdiction to pass the said order. In the submission of the learned Counsel, the Tribunal, by passing the said order, has virtually clarified the order passed by this Court and, therefore, the order of the Tribunal is ab initio void and without any authority.

2. To appreciate the contentions of the learned Counsel for the parties, it is necessary to narrate certain facts.

A suit being Lavad Suit No. 1217 of 1998 was filed by the present respondents no. 1 and 2 before the Registrar, Board of Nominees, Ahmedabad praying to hold the election of directors of the petitioner no.1- Bank as the term of the directors, namely the petitioners no.2 to 5 has come to an end on 31st March 1998 and, therefore, a fresh election of the directors be held. By way of interim relief, an application Ex. 6 was filed and the trial court granted ex-parte injunction restraining the petitioners from functioning and taking the policy decisions and they were further restrained from implementing the resolution dated 27th September 1998 of the Annual General Meeting. Against the said order, the petitioners preferred Revision Application No. 312 of 1998 before the Gujarat State Cooperative Tribunal. On 6th October 1998, the Tribunal stayed the order passed below Ex. 6 by the Board of Nominees. The said revision application was thereafter heard by the Tribunal and the Tribunal, by its judgment and order dated 16th October 1998, directed the petitioner no.1-Bank to hold election of the members of the whole managing committee on or before 31st October 1998. The petitioners being aggrieved by the said order, preferred Special Civil Application No. 9072 of 1998 before this Court. On 25th November 1998, this Court, after hearing the parties, passed an order in view of the consensus arrived at between the parties and directed the District Registrar, Ahmedabad (Rural) to hold the election of petitioner no.1- Bank as directed by the Tribunal either by himself or by any other officer not below the rank of Assistant District Registrar, in accordance with the bylaws of the petitioner no.1 Bank. The said officer was granted liberty to reschedule the election programme in accordance with the bylaws since the schedule fixed had become redundant. This Court specifically directed to complete the election on or before 31st December 1998. In view of the same, ultimately the petition was disposed of. It appears that the District Registrar moved an application for extension of time limit by filing an application being Misc. Application No. 2882 of 1998

and this Court, by its order dated 12th February 1999, extended the time to hold the election upto 30th April 1999. It appears that the respondents no. 1 and 2 original plaintiffs filed an application being Misc. Application No. 304 of 1999 to review and recall the order dated 12th February 1999 extending the period to complete the election upto 30th April 1999 by inter alia contending that they were neither served with the copy of the Misc. Application No. 2882 of 1998 nor the name of the learned advocate was shown on board when the said application was heard on 12th February 1999. This Court, on 4th March 1999, considering the facts and circumstances of the case and more particularly in view of the fact that the District Registrar sought extension only upto 30th April 1999 and since this Court directed to complete the election on or before 31st December 1998 and since the election was not held before the said date, extended time to complete the election till 31st March 1999. It further appears that even this order was challenged by way of Letters Patent Appeal No. 265 of 1999. On 6th March 1999, the Division Bench issued notice in the said Letters Patent Appeal and during the pendency of the said proceedings, election programme was published by the District Magistrate fixing the date of the election of 15 directors on 28th March 1999. It appears that the present respondents no. 1 and 2 filed an application in the pending Revision Application No. 312 of 1998 by contending that the District Registrar was required to hold the election with respect to only five directors and, therefore, necessary directions were prayed to be issued. The Tribunal, on 17th March 1999, without hearing the petitioners, passed the order clarifying the order of the High Court, as stated above, which is under challenge in this petition.

3. Having gone through the said order, it appears that the Tribunal virtually clarified the order of this Court and directed to hold election with respect to five members of the managing committee of the petitioner no.1 Bank and not the entire Board. In my opinion, the Tribunal could not have exercised its powers during the pendency of the Letters Patent Appeal. The Tribunal could have relegated the petitioner to this Court seeking clarification in the matter. The Tribunal, while passing the said order, also did not hear the petitioners and, therefore also, the said order dated 17th March 1999 is in breach of the principles of natural justice as the same was passed behind the back of the petitioners. In any case, in pursuance of the directions given by this Court, the District Registrar held the election of the entire Board of the petitioner no.1 Bank and, therefore,

the direction by the Tribunal to hold the election of five directors, in my opinion, has become redundant. In any case, the Division Bench, in the order dated 4th May 1999 in Letters Patent Appeal No. 265 of 1999 has observed that as the election has already been held, the Letters Patent Appeal has become infructuous and, therefore, the grievance to hold the election of only five directors is not required to be entertained by the Court. Mr. Patel, learned Counsel appearing for the petitioners has stated that the respondents no. 1 and 2 who preferred Lavad Suit No. 1217 of 1998 have also withdrawn the said suit. Not only that, the Tribunal has also disposed of the revision application since the suit was withdrawn. In this view of the matter, now it is clear that in view of the fact that the election of the entire Board is held and the new body has taken over the charge, the proceedings so far initiated have virtually become infructuous. The fact that the respondents, though served in this matter have also chosen not to file appearance in the matter, would further go to show that the dispute has virtually become infructuous.

In this view of the matter, this petition is allowed and the impugned order dated 17th March 1999 passed by the Tribunal is set aside. Rule is accordingly made absolute with no order as to costs.

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